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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/085,462	02/28/2002	Tomohiro Koyata	7217/66559	1812

7590 10/27/2005
COOPER & DUNHAM LLP
1185 Avenue of the Americas
New York, NY 10036

EXAMINER

BAYAT, BRADLEY B

ART UNIT PAPER NUMBER

3621

DATE MAILED: 10/27/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/085,462	Applicant(s) KOYATA ET AL.	
	Examiner Bradley B. Bayat	Art Unit 3621	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 04 August 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-17 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 28 February 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

Applicant's election without traverse of Group I, Claims 1-17 in the reply filed on August 4, 2005 is acknowledged. Claims 18-26 have been canceled without prejudice. Thus, claims 1-17 are pending and presented for examination on the merits.

Priority

Acknowledgment is made of applicant's claim for foreign priority under 35 U.S.C. 119(a)-(d). The certified copy was filed in the instant application on May 24, 2002.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-17 are rejected under 35 U.S.C. 102(e) as being anticipated by Ginter et al. (hereinafter Ginter), US 2004/0133793 A1.

As per the following claims, Ginter discloses:

1. A digital signal processing apparatus comprising:

-transmitting means for transmitting inquiry information to an information center over a communication line, said inquiry information being generated based on digital data which have been recorded on a storage medium loaded by a customer into the apparatus after undergoing a predetermined low bit rate coding process [0008; 0222];

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-receiving means for receiving a result of an inquiry conducted by said information center based on said inquiry information [0226-0240];

-discriminating means for judging, based on said result of said inquiry, whether said digital data recorded on said storage medium are legitimately purchased data [1118, 1126, 1540, 1858, 1971-1975]; and

-controlling means which, if said discriminating means judges said digital data to be legitimately purchased data, then executes a process to offer an additional service to said customer [0057-0093].

2. A digital signal processing apparatus according to claim 1, wherein said additional service is offered to said customer by said controlling means either copying or moving said digital data from said storage medium to another storage medium [0192, 0208, 0215-0221].

3. A digital signal processing apparatus according to claim 1, wherein said additional service is offered to said customer by said controlling means converting said digital data recorded on said storage medium after undergoing said predetermined low bit rate coding process with an algorithm of a predetermined version, into digital data having undergone a low bit rate coding process with an algorithm of a more advanced version, before replacing the unconverted digital data with the converted digital data on said storage medium [0965, 1478, 1511, 2017, 2280].

4. A digital signal processing apparatus according to claim 1, wherein said additional service is offered to said customer by said controlling means restoring said digital data having undergone

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said predetermined low bit rate coding process onto said storage medium [0186-0191, 2064].

5. A digital signal processing apparatus according to claim 1, wherein said additional service is offered to said customer by said controlling means converting said digital data recorded on said storage medium after undergoing said predetermined low bit rate coding process of a predetermined bit rate, into digital data having undergone a low bit rate coding process of a different bit rate, before replacing the unconverted digital data with the converted digital data on said storage medium [2279-2321].

6. A digital signal processing apparatus according to claim 1, wherein said additional service offered to said customer comprises furnishing said customer, free of charge, with a product related to a producing party who produced said digital data purchased legitimately by said customer from said information center [0107-0141].

7. A digital signal processing apparatus according to claim 1, further comprising inputting means for inputting identification information for identifying said digital data which have undergone said predetermined low bit rate coding process and which are subject to said inquiry; wherein said identification information input through said inputting means is transmitted to said information center over said communication line [0193-0229].

8. A digital signal processing apparatus according to claim 7, wherein said information center comprises: receiving means for receiving said inquiry information and said identification

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information for identifying said digital data which have undergone said predetermined low bit rate coding process and which are subject to said inquiry transmitted from said digital signal processing apparatus; retrieving means for retrieving said digital data subject to said inquiry from said information center based on said identification information for identifying said digital data; reference inquiry information generating means for generating reference inquiry information based on said digital data retrieved by said retrieving means; comparing means for comparing said reference inquiry information generated by said reference inquiry information generating means with said inquiry information received by said receiving means; inquiry result generating means for generating an inquiry result based on a result of the comparison by said comparing means; and transmitting means for transmitting said inquiry result generated by said inquiry result generating means [0509, 0722].

9. A digital signal processing apparatus according to claim 8, wherein said reference inquiry information generating means subjects part of said digital data retrieved by said retrieving means to a low bit rate coding process executed by a software encoder, the coded data part being compared with said inquiry information by said comparing means [1350-1814].

10. A digital signal processing apparatus according to claim 1, further comprising charging means for processing charges; wherein, if said discriminating means judges that said digital data recorded on said storage medium are legitimately purchased data, then said charging means either charges nothing or a reduced amount on said customer for said additional service offered to said customer [0222-0272].

Claims 11-17 are directed to a method of the above-recited apparatus and are similarly rejected.

Although the Examiner has pointed out particular references contained in the prior art(s) of record in the body of this action, the specified citations are merely representative of the teachings in the art as applied to the specific limitations within the individual claim. Since other passages and figures may apply to the claimed invention as well, it is respectfully requested that the applicant, in preparing the response, to consider fully the entire references as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior arts or disclosed by the examiner.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure:

- US 2002/0052849 A1 to McCutchen et al.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bradley B. Bayat whose telephone number is 571-272-6704. The examiner can normally be reached on Tuesday - Friday 8 a.m.-6:30 p.m. and by email: bradley.bayat@uspto.gov.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Trammell can be reached regarding urgent matters at 571-272-6712.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Any response to this action should be mailed to:

Commissioner of Patents and Trademarks
Washington, D.C. 20231

Or faxed to:

(571) 273-8300 - Official communications; including After Final responses.

(571) 273-6704 - Informal/Draft communications to the examiner.

A handwritten signature in black ink, appearing to read "Bradley Bayat", with a stylized horizontal line extending from the end.

Bradley B. Bayat, Esq.
Reg. No. 56,013
Art Unit 3621
Examiner